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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 07 2023

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

Case No. 2:22-CR-22-RMP

13 v.

PLEA AGREEMENT

14 RHONDA SUE ACKERMAN,

15 Defendant.

16 Plaintiff, United States of America, by and through Vanessa R. Waldref, United
17 States Attorney for the Eastern District of Washington, George J.C. Jacobs, III,
18 Assistant United States Attorney for the Eastern District of Washington, and
19 Defendant RHONDA SUE ACKERMAN (hereinafter "Defendant" and/or
20 "RHONDA SUE ACKERMAN" and/or "ACKERMAN") and Defendant's counsel,
21 Colin G. Prince and Kathryn P. Lucido, agree to the following Plea Agreement:

22 1. Guilty Pleas and Maximum Statutory Penalties:

23 Defendant, RHONDA SUE ACKERMAN, agrees to plead guilty to Counts 1
24 and 2 of the Indictment returned by the Grand Jury on February 15, 2022. Defendant
25 understands that each charge is a Class A misdemeanor offense, which carries a
26 maximum statutory penalty of: not more than a one-year term of imprisonment; not
27 more than a \$100,000 fine; not more than a one-year term of supervised release; the
28 payment of restitution; costs of prosecution; and a \$25.00 special penalty assessment.

1 Defendant further understands that the maximum term of probation that may be
2 imposed in lieu of a sentence of imprisonment and supervised release is not more than
3 5 years. Defendant understands that the Court has the authority to impose consecutive
4 sentences for each conviction.

5 Defendant understands that if Defendant violates any condition of Defendant's
6 supervised release, the Court may revoke Defendant's term of supervised release, and
7 require Defendant to serve in prison all or part of the term of supervised release
8 authorized by statute for the offense that resulted in such term of supervised release
9 without credit for time previously served on postrelease supervision, up to 1 year in
10 prison. Accordingly, Defendant understands that if Defendant commits one or more
11 violations of supervised release, Defendant could serve a total term of incarceration
12 greater than the maximum sentence authorized by statute for Defendant's offense(s) of
13 conviction.

14 2. The Court is Not a Party to the Agreement:

15 The Court is not a party to this Plea Agreement and may accept or reject it.
16 Defendant acknowledges that no promises of any type have been made to Defendant
17 with respect to the sentence the Court will impose in this matter.

18 Defendant understands the following:

- 19 a. sentencing is a matter solely within the discretion of the Court;
- 20 b. the Court is under no obligation to accept any recommendations
21 made by the United States or Defendant;
- 22 c. the Court will obtain an independent report and sentencing
23 recommendation from the United States Probation Office;
- 24 d. the Court may exercise its discretion to impose any sentence it
25 deems appropriate, up to the statutory maximum penalties;
- 26 e. the Court is required to consider the applicable range set forth in
27 the United States Sentencing Guidelines, but may depart upward or
28 downward under certain circumstances; and

1 the Court may reject recommendations made by the United States or Defendant,
2 and that will not be a basis for Defendant to withdraw from this Plea Agreement or
3 Defendant's guilty pleas.

4 3. Waiver of Constitutional Rights:

5 Defendant understands that by entering this guilty plea, Defendant is knowingly
6 and voluntarily waiving certain constitutional rights, including the following:

- 7 a. the right to a jury trial;
- 8 b. the right to see, hear and question the witnesses;
- 9 c. the right to remain silent at trial;
- 10 d. the right to testify at trial; and
- 11 e. the right to compel witnesses to testify.

12 While Defendant is waiving certain constitutional rights, Defendant understands
13 that Defendant retains the right to be assisted by an attorney through the sentencing
14 proceedings in this case and any direct appeal of Defendant's conviction and sentence,
15 and that an attorney will be appointed at no cost if Defendant cannot afford to hire an
16 attorney.

17 Defendant understands and agrees that any defense motions currently pending
18 before the Court are mooted by this Plea Agreement, and Defendant expressly waives
19 Defendant's right to bring any additional pretrial motions.

20 4. Elements of the Offense:

21 The parties agree that, in order to convict Defendant of Failure to File Income
22 Tax Returns, in violation of 26 U.S.C. § 7203, as charged in Counts 1 and 2, the
23 United States would have to prove beyond a reasonable doubt the following elements:

- 24 - First, on or about April 18, 2016 [Count 1] October 15, 2017 [Count
25 2], in the Eastern District of Washington, Defendant was required to
26 file an income tax return for the calendar year ending December 31,
27 2015 [Count 1] December 31, 2016 [Count 2];

- 1 - *Second*, Defendant failed to file an income tax return with the Internal
2 Revenue Service (“IRS”) by April 18, 2016 [Count 1] October 15,
3 2017 [Count 2]; and
4 - *Third*, in failing to do so, Defendant acted willfully.

5 5. Factual Basis and Statement of Facts:

6 The parties stipulate and agree that the United States could prove the following
7 facts beyond a reasonable doubt at trial, and these facts constitute an adequate factual
8 basis for Defendant’s guilty pleas. This statement of facts does not preclude either
9 party from presenting and arguing, for sentencing purposes, additional facts which are
10 relevant to the guideline computation or sentencing, unless otherwise prohibited in
11 this agreement.

12 During the 2014, 2015 and 2016 calendar years, RHONDA SUE ACKERMAN,
13 a resident of Spokane, Washington, was employed as a liability claims technician at
14 Spokane County Department of Risk Management. ACKERMAN was required to
15 file a federal income tax return (Form 1040) with the Internal Revenue Service
16 (“IRS”) because she and her husband had and received gross income computed on the
17 community property basis in excess of \$20,500 in 2014, \$20,600 in 2015, and \$20,700
18 in 2016. ACKERMAN willfully failed to file income tax returns (Forms 1040) for
19 each calendar year. IRS Criminal Investigation’s search of IRS records and IRS
20 transcripts clearly indicate there were no returns filed under ACKERMAN’s name or
21 social security number in any of the years in question. ACKERMAN filed a request
22 for extension of time to file for the calendar years 2014 and 2016 but filing a request
23 for extension and then filing no return does not satisfy the taxpayer’s burden to file a
24 return. ACKERMAN was aware of the obligation to file personal income tax returns.
25 She and her husband had filed tax returns in previous years, and they filed extensions
26 in both 2014 and 2016.

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1 6. The United States Agreements:

2 The United States Attorney's Office for the Eastern District of Washington
3 agrees not to bring additional charges against Defendant based on information in its
4 possession at the time of this Plea Agreement that arise from conduct that is either
5 charged in the Indictment or identified in discovery produced in this case, unless
6 Defendant breaches this Plea Agreement before sentencing.

7 7. United States Sentencing Guideline Calculations:

8 Defendant understands and acknowledges that the United States Sentencing
9 Guidelines ("USSG" or "Guidelines") apply and that the Court will determine
10 Defendant's advisory range at the time of sentencing, pursuant to the Guidelines. The
11 United States and Defendant agree to the following Guidelines calculations.

12 (a) Base Offense Level:

13 Defendant acknowledges that the United States will recommend that
14 Defendant's Base Offense Level for failure to file tax returns is 14, based on a tax loss
15 of more than \$40,000 but less than \$100,000. *See* USSG §§ 2T1.1(a), 2T4.1(E).
16 Defendant reserves the right to object.

17 (b) Specific Offense Characteristics:

18 Defendant acknowledges that the United States will recommend that
19 Defendant's Base Offense Level should be increased 2-levels because Defendant
20 failed to report the source of income exceeding \$10,000 in any year from criminal
21 activity. USSG § 2T1.1(b)(1). Defendant reserves the right to object. Defendant
22 acknowledges that the United States will recommend that Defendant's Base Offense
23 Level should be increased 2-levels because the offense involved sophisticated means.
24 USSG § 2T1.1(b)(2). Defendant reserves the right to object.

25 (c) Abuse of Position of Trust:

26 Defendant acknowledges that the United States will recommend that
27 Defendant's offense level be increased 2-levels on the basis that she abused a position
28 of public trust. USSG §3B1.3. Defendant reserves the right to object.

1 (d) Using a Minor to Commit a Crime:

2 Defendant acknowledges that the United States will recommend that
3 Defendant's offense level be increased 2-levels on the basis that she used a minor to
4 commit a crime. USSG §3B1.4. Defendant reserves the right to object.

5 (e) Multiple Count Analysis:

6 The parties agree that Counts 1 and 2 involve substantially the same harm and
7 should be grouped together into a single Group. USSG §3D1.2.

8 (f) Acceptance of Responsibility:

9 The United States will recommend that Defendant receive a three-level
10 downward adjustment¹ for acceptance of responsibility, pursuant to U.S.S.G.
11 § 3E1.1(a), (b), if Defendant does the following:

- 12 i. accepts this Plea Agreement;
- 13 ii. enters a guilty plea at the first Court hearing that takes place
14 after the United States offers this Plea Agreement;
- 15 iii. demonstrates recognition and affirmative acceptance of
16 Defendant's personal responsibility for Defendant's criminal
17 conduct;
- 18 iv. provides complete and accurate information during the
19 sentencing process; and
- 20 v. does not commit any obstructive conduct.

21 The United States and Defendant agree that at its option and on written notice
22 to Defendant, the United States may elect not to recommend a reduction for
23 acceptance of responsibility if, prior to the imposition of sentence, Defendant is
24 charged with, or convicted of, any criminal offense, or if Defendant tests positive for
25 any controlled substance.

26
27
28 ¹ If Defendant's offense level is 16 or greater.

1 (g) No other Agreements:

2 The United States and Defendant have no other agreements regarding the
3 Guidelines or the application of any Guidelines enhancements, departures, or
4 variances. Defendant understands and acknowledges that the United States is free to
5 make any sentencing arguments it sees fit, including arguments arising from
6 Defendant's uncharged conduct, conduct set forth in charges that will be dismissed
7 pursuant to this Agreement, and Defendant's relevant conduct.

8 (h) Criminal History:

9 The United States and Defendant have no agreement and make no
10 representations about Defendant's criminal history category, which will be determined
11 by the Court after the United States Probation Office prepares and discloses a
12 Presentence Investigative Report.

13 8. Departure:

14 The Defendant is free to move for a departure and/or variance under 18 U.S.C.
15 § 3553. The United States intends to seek a guidelines sentence.

16 9. Incarceration:

17 The United States agrees to recommend a sentence of imprisonment at the low-
18 end of the adjusted sentencing range under the USSG as determined by the Court at
19 the time of sentencing. The Defendant is free to recommend any legal sentence she
20 deems appropriate. Again, the Defendant understands that the Court will ultimately
21 determine the applicable sentencing guideline range and is not bound to follow the
22 recommendations of the parties and that the Court may also depart or vary downward
23 or upward under the appropriate circumstances from the applicable advisory
24 sentencing range. The parties further agree to recommend to the Court that any term
25 of imprisonment it may impose in the instant case run concurrent to any term of
26 imprisonment that may be imposed in *State of Washington v. Rhonda Sue Ackerman*,
27 Case No. 21110632-32.

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1 10. Criminal Fine:

2 The parties are free to make whatever recommendation concerning the
3 imposition of a criminal fine that they believe is appropriate.

4 11. Restitution:

5 The Defendant agrees that, pursuant to 18 U.S.C. §§ 3663(a) and 3664, she
6 owes restitution in the amount of \$96,363.00 to the Internal Revenue Service (“IRS”)
7 for the federal income taxes for tax years 2014, 2015 and 2016. Defendant agrees to
8 pay \$96,363.00 in full satisfaction of her restitution obligation at or before sentencing.

9 If the Defendant fails to pay the foregoing restitution in full at or before
10 sentencing, the parties agree the following conditions shall apply:

- 11 (a) The parties agree the Court will order that the full amount of
12 restitution is due and payable immediately *See* 18 U.S.C. §
13 3664(f)(2), (3)(A).
- 14 (b) Defendant understands that any monetary debt Defendant owes
15 related to this matter may be included in the Treasury Offset
16 Program (TOP) to potentially offset defendant’s federal retirement
17 benefits, tax refunds, and other federal benefits. Defendant also
18 understands the United States may, notwithstanding the Court-
19 imposed payment schedule, pursue other avenues to ensure the
20 restitution obligation is satisfied, including, but not limited to,
21 garnishment of available funds, wages, or assets. *See* 18 U.S.C.
22 §§ 3572, 3613, and 3664(m). Nothing in this acknowledgment
23 shall be construed to limit Defendant’s ability to assert any
24 specifically identified exemptions as provided by law, except as set
25 forth in this Plea Agreement.
- 26 (c) Until a fine or restitution order is paid in full, Defendant agrees
27 fully to disclose all assets in which Defendant has any interest or
28

1 over which Defendant exercises control, directly or indirectly,
2 including those held by a spouse, nominee or third party.

- 3 (d) Defendant agrees to notify the Financial Litigation Unit of the
4 United States Attorney's Office before Defendant transfers any
5 interest in property with a value exceeding \$1,000 owned directly
6 or indirectly, individually or jointly, by Defendant, including any
7 interest held or owned under any name, including trusts,
8 partnerships and corporations. This obligation ceases when the
9 restitution is paid-in-full.
- 10 (e) The Defendant agrees to notify the Court and the United States of
11 any material change in her economic circumstances (e.g.,
12 inheritances, monetary gifts, changed employment, or income
13 increases) that might affect her ability to pay restitution. *See* 18
14 U.S.C. § 3664(k). The Defendant agrees to notify the United States
15 of any address change within 30 days of that change. *See* 18 U.S.C.
16 §3612(b)(F). These obligations cease when the restitution is paid-
17 in-full.

18 The Defendant agrees that this Plea Agreement resolves only the Defendant's
19 criminal restitution and acknowledges the following terms:

- 20 (a) The IRS will use the amount of restitution ordered as the basis for
21 a civil assessment under 26 U.S.C. § 6201(a)(4). The defendant
22 does not have the right to challenge the amount of this restitution-
23 based assessment. *See* 26 U.S.C. § 6201(a)(4)(C). Neither the
24 existence of a restitution payment schedule nor the Defendant's
25 timely payment of restitution according to that schedule will
26 preclude the IRS from immediately collecting the full amount of
27 the restitution-based assessment. Interest on the restitution-based
28 assessment will accrue under 26 U.S.C. § 6601 from the last date

1 prescribed for payment of the tax liability that is the subject of the
2 restitution-based assessment to the date that the IRS receives full
3 payment.

4 (b) Defendant is entitled to receive credit for restitution paid pursuant
5 to this plea agreement against those assessed civil tax liabilities
6 due and owing for the same periods for which restitution was
7 ordered. Defendant understands and agrees that the plea
8 agreement does not resolve the Defendant's civil tax liabilities, that
9 the IRS may seek additional taxes, interest and penalties from the
10 defendant relating to the conduct covered by this plea agreement
11 and for conduct relating to another time period, and that
12 satisfaction of the restitution debt does not settle, satisfy, or
13 compromise Defendant's obligation to pay any remaining civil tax
14 liability. Defendant authorizes release of information to the IRS
15 for purposes of making the civil tax and restitution-based
16 assessments.

17 (c) Defendant understands that she is not entitled to credit with the
18 IRS for any payment until the payment is received by the IRS.

19 (d) If full payment is not made immediately, the Defendant agrees to
20 make a complete and accurate financial disclosure to the IRS on
21 forms prescribed by the IRS (including, but not limited to, IRS
22 Form 433-A and Form 433-B, as appropriate), and to disclose to
23 the IRS any and all additional financial information and financial
24 statements provided to the United States Attorney's Office or the
25 probation office. Defendant also agrees to provide the above-
26 described information to the United States Attorney's Office and to
27 the probation office.
28

1 (e) Defendant agrees that this agreement, or any judgment, order,
2 release, or satisfaction issued in connection with this agreement,
3 will not satisfy, settle, or compromise the Defendant's obligation to
4 pay the balance of any remaining civil liabilities, including tax,
5 additional tax, additions to tax, interest, and penalties, owed to the
6 IRS for the time period(s) covered by this agreement or any other
7 time period.

8 (f) Defendant agrees that, unless the Director of the Administrative
9 Office of the United States Courts directs him otherwise, all
10 payments made pursuant to the Court's restitution order are to be
11 sent to the Clerk of the Court at the following address:

12 Sean F. McAvoy.
13 U.S. Courthouse
920 W. Riverside Avenue
Spokane, Washington 99201

14 (g) With each payment to the Clerk of the Court made pursuant to the
15 District Court's restitution order, the Defendant will provide the
16 following information:

- 17 • The Defendant's name and Social Security number;
- 18 • The District Court docket number assigned to this case;
- 19 • Tax periods(s) for which restitution has been ordered; and
- 20 • A statement that the payment is being submitted pursuant to
21 the District Court's restitution order.

22 (h) Defendant agrees to include a request that the Clerk of the Court
23 send the information, along with the Defendant's payments, to the
24 appropriate office of the IRS. The Defendant also agrees to send a
25 notice of any payments made pursuant to this agreement, including

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1 the information listed in the previous paragraph, to the IRS at the
2 following address:

3 IRS - RACS
4 Attn: Mail Stop 6261, Restitution
5 333 W. Pershing Ave.
6 Kansas City, MO 64108

6 12. Supervised Release:

7 The parties agree to recommend that the Court impose a 1-year term of
8 supervised release. The parties are free to advocate for any special conditions they
9 believe are appropriate.

10 13. Mandatory Special Penalty Assessment:

11 Defendant agrees to pay the \$50 (\$25 per count of conviction) mandatory
12 special penalty assessment to the Clerk of Court for the Eastern District of
13 Washington. *See* 18 U.S.C. § 3013.

14 14. Payments While Incarcerated:

15 If Defendant lacks the financial resources to pay the monetary obligations
16 imposed by the Court, then Defendant agrees to earn the money to pay toward these
17 obligations by participating in Bureau of Prisons' Inmate Financial Responsibility
18 Program.

19 15. Additional Violations of Law Can Void Plea Agreement:

20 The parties agree that the United States may at its option and upon written
21 notice to Defendant, withdraw from this Plea Agreement or modify its
22 recommendation for sentence if, before sentencing, Defendant is charged or convicted
23 of any criminal offense whatsoever or if Defendant tests positive for any controlled
24 substance.

25 16. Appeal Rights:

26 Defendant understands that she has a limited right to appeal or challenge the
27 conviction and sentence imposed by the Court. Defendant hereby expressly waives
28 her right to appeal her convictions, sentence and fine but reserves her right to appeal

1 any restitution order if it exceeds \$96,363.00. Defendant further expressly waives her
2 right to file any post-conviction motion attacking her convictions and sentence to
3 include any restitution order, including a motion pursuant to 28 U.S.C. § 2255, except
4 one based upon ineffective assistance of counsel based on information not now known
5 by Defendant and which, in the exercise of due diligence, could not be known by
6 Defendant by the time the Court imposes the sentence.

7 17. Compassionate Release:

8 In consideration for the benefits Defendant is receiving under the terms of this
9 Plea Agreement, Defendant expressly waives Defendant's right to bring any motion
10 for Compassionate Release other than a motion arising from one of the specific bases
11 set forth in this paragraph of this Plea Agreement. The United States retains the right
12 to oppose, on any basis, any motion Defendant files for Compassionate Release.

13 The only bases on which Defendant may file a motion for Compassionate
14 Release in the Eastern District of Washington are the following:

15 b. Medical Condition of Defendant.

- 16 i. Defendant is suffering from a terminal illness (i.e., a serious
17 and advanced illness with an end of life trajectory). A
18 specific prognosis of life expectancy (i.e., a probability of
19 death within a specific time period) is not required.

20 Examples include metastatic solid-tumor cancer,
21 amyotrophic lateral sclerosis (ALS), end-stage organ
22 disease, and advanced dementia; or

- 23 ii. Defendant is suffering from a serious physical or medical
24 condition, a serious functional or cognitive impairment, or
25 deteriorating physical or mental health because of the aging
26 process that substantially diminishes the ability of the
27 defendant to provide self-care within the environment of a
28

1 correctional facility and from which Defendant is not
2 expected to recover.

3 c. Age of Defendant.

- 4 i. Defendant is at least 65 years old, is experiencing a serious
5 deterioration in physical or mental health because of the
6 aging process; and has served at least 10 years or 75 percent
7 of Defendant's term of imprisonment, whichever is less; or
8 ii. Defendant is at least 70 years old and has served at least 30
9 years in prison pursuant to a sentence imposed under 18
10 U.S.C. § 3559(c) for the offense or offenses for which
11 Defendant is imprisoned.

12 d. Family Circumstances.

- 13 i. The caregiver of Defendant's minor child or children has
14 died or become incapacitated, and Defendant is the only
15 available caregiver for Defendant's minor child or children;
16 or
17 ii. Defendant's spouse or registered partner has become
18 incapacitated, and Defendant is the only available caregiver
19 for Defendant's spouse or registered partner.

20 e. Ineffective Assistance of Counsel.

- 21 i. Defendant seeks Compassionate Release based on a claim of
22 ineffective assistance of counsel arising from information
23 that Defendant both

- 24 1. did not know at the time of Defendant's guilty plea,
25 and

26 could not have known, in the exercise of due diligence, at the time the Court imposed
27 sentence.

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1 18. Withdrawal or Vacatur of Defendant's Pleas:

2 Should Defendant successfully move to withdraw from this Plea Agreement or
3 should Defendant's convictions be set aside, vacated, reversed, or dismissed under any
4 circumstance, then:

- 5 a. this Plea Agreement shall become null and void;
6 b. the United States may prosecute Defendant on all available
7 charges;
8 c. The United States may reinstate any counts that have been
9 dismissed, have been superseded by the filing of another charging
10 instrument, or were not charged because of this Plea Agreement;
11 and
12 d. the United States may file any new charges that would otherwise
13 be barred by this Plea Agreement.

14 The decision to pursue any or all of these options is solely in the discretion of
15 the United States Attorney's Office.

16 Defendant agrees to waive any objections, motions, and/or defenses Defendant
17 might have to the United States' decisions to seek, reinstate, or reinitiate charges if a
18 count of conviction is withdrawn, set aside, vacated, reversed, or dismissed, including
19 any claim that the United States has violated Double Jeopardy.

20 Defendant agrees not to raise any objections based on the passage of time,
21 including but not limited to, alleged violations of any statutes of limitation or any
22 objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
23 Amendment.

24 19. Integration Clause:

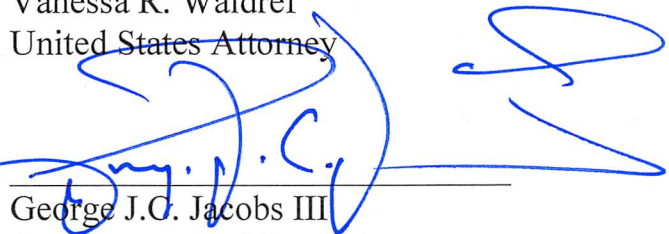
25 The parties acknowledge that this document constitutes the entire Plea
26 Agreement between the parties, and no other promises, agreements, or conditions exist
27 between the parties concerning this case's resolution. This Plea Agreement is binding
28 only upon the United States Attorney's Office for the Eastern District of Washington,

1 and cannot bind other federal, state, or local authorities. The parties agree that this
2 agreement cannot be modified except in writing that is signed by the United States and
3 Defendant.

4 Approval and Signature


5 Agreed and submitted on behalf of the United States Attorney's Office for the
6 Eastern District of Washington.

7 Vanessa R. Waldref
8 United States Attorney

9
10 
11 George J.O. Jacobs III
12 Assistant United States Attorney

2/7/2023
Date

13 I have read this Plea Agreement and have carefully reviewed and discussed
14 every part of the agreements with my attorney. I understand and voluntarily enter into
15 the Plea Agreement. Furthermore, I have consulted with my attorney about my rights,
16 I understand those rights, and I am satisfied with the representation of my attorney in
17 this case. No other promise or inducements have been made to me, other than those
18 contained in this Plea Agreement and no one has threatened or forced me in any way
19 to enter into this Plea Agreement. I am agreeing to plead guilty because I am guilty.

20
21 
22 RHONDA SUE ACKERMAN
23 Defendant


2/7/23
Date

24 I have read the Plea Agreement and have discussed the contents of the
25 agreement with my client. The Plea Agreement accurately and completely sets forth
26 the entirety of the agreement between the parties. I concur in my client's decision to

27 ///

28 ///

1 plead guilty as set forth in the Plea Agreement. There is no legal reason why the
2 Court should not accept Defendant's pleas of guilty.

3
4 
5 _____
6 Colin G. Prince
7 Attorney for Defendant

2/7/23

Date

8 I have read the Plea Agreement and have discussed the contents of the
9 agreement with my client. The Plea Agreement accurately and completely sets forth
10 the entirety of the agreement between the parties. I concur in my client's decision to
11 plead guilty as set forth in the Plea Agreement. There is no legal reason why the
12 Court should not accept Defendant's pleas of guilty.

13
14
15 _____
16 Kathryn P. Lucido
17 Attorney for Defendant

Date